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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/964,180	11/04/1997	MASAKI HIGURASHI	970668/LH	1966
1933	7590	04/21/2004	EXAMINER	
FRISHAUF, HOLTZ, GOODMAN & CHICK, PC			NGUYEN, LUONG TRUNG	
767 THIRD AVENUE			ART UNIT	
25TH FLOOR			PAPER NUMBER	
NEW YORK, NY 10017-2023			2612	

DATE MAILED: 04/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

08/964,180

Applicant(s)

HIGURASHI ET AL.

Examiner

LUONG T NGUYEN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5,7,9,10,12-14,17,19-22,25 and 27-34 is/are pending in the application.
- 4a) Of the above claim(s) 1,5,7,9,12,13,17,19,21,25 and 27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2, 10, 14, 20, 22, 28-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/25/2003 has been entered.
2. Applicant's election of Species corresponding to Figure 14, which reads on claims 2, 10, 14, 20, 22, and 28, in Paper No. 25 filed on 5/01/2002, is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
3. Claims 1, 5, 7, 9, 12, 13, 17, 19, 21, 25, 27 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 25 filed on 5/01/2002.

Response to Arguments

4. Applicant's arguments, filed on 1/31/2004, with respect to "Non-responsive Amendment" in the Office Action as made on 10/03/2003 have been fully considered and are

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persuasive. The objection of non-responsive amendment has been withdrawn. The Amendment filed on 6/12/2003 has been considered. A non Office Action set forth below.

5. Applicant's arguments filed on 6/12/2003 have been fully considered but they are not persuasive.

In re pages 9-12, Applicants argue that Ueno et al. do not disclose, teach or even remotely suggest the "correction parameter calculating means", "correction parameter setting means", "brightness correcting means", and/or "image synthesizing means" as recited in claim 2.

In response, regarding claim 2, the Applicants amended claim 2 with the newly added limitation "correction parameter calculating means for determining correction parameters between the plurality of images input from the image input means; correction parameter setting means for adjusting the correction parameters determined by the correction parameter calculating means, while differences in brightness between the plurality of images displayed by the image display means are being checked by a user; brightness correcting means for correcting the brightness of said at least one image in accordance with the correction parameters adjusted by the correction parameter setting means; and image synthesizing means for synthesizing the plurality of images including in said at least one image, the brightness of which is corrected by the brightness correcting means".

The Examiner considers that claim 2 as amended still does not distinguish from Ueno et al. as discussed below.

Claim Objections

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6. Claims 2, 10, 14, 20, 22, 28-34 are objected to because of the following informalities:

Claim 2 (line 17), claim 14 (line 16), claim 22 (line 19), claim 30 (lines 15-16), "said at least one image" should be changed to --at least one image--.

Claim 22 (line 21), "setting means" should be changed to --setting program--.

Claim 22 (line 24), "correcting means" should be changed to --correcting program--.

Claim 30 (line 9), "input means" should be changed to --input device--.

Claim 32 (line 3), "calculator means" should be changed to --calculator--.

Claim 33 (line 1), "The image processing apparatus" should be changed to --The image processing method--.

Claim 34 (line 1), "The image processing apparatus" should be changed to --The recording medium--.

Claims 10, 29 are objected as being dependent on claim 2.

Claims 20, 33 are objected as being dependent on claim 14.

Claims 28, 34 are objected as being dependent on claim 22.

Claims 31, 32 are objected as being dependent on claim 30.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 2, 10, 14, 20, 22, 28-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Ueno et al. (JP 8-32847).

Regarding claim 2, Ueno et al. disclose an electronic still camera comprising image input means for inputting a plurality of images of one composition which are picked up under different exposure conditions (figures 1, 10, 11, exposure synthesis mode, sections [0090], [0091], [0092], [0093], pages 40-41); correction parameter calculation means for determining correction parameters between the plurality of images input from the image input means (figure 10, set aperture value display part 65 showing the aperture value (correction value) is set, section [0051], page 27); image display means for displaying the plurality of images input from the image input means (display device 44, figures 10, 11); correction parameter setting means for adjusting the correction parameters (aperture modification display part 66 for modifying (adjusting) the aperture value, figure 10, section [0051], page 27) determined by the correction parameter calculating means, while differences in brightness between the plurality of images displayed by the image display means are being checked by a user (the brightness in the photographed image is set by the operator, section [0019], page 17); brightness correcting means (correction brightness display part 86, section [0095], page 42); image synthesizing means for synthesizing the plurality of images including at least one image, the brightness of which is corrected by the brightness correcting means (exposure synthesis mode, sections [0090], [0100], pages 40, 44, figures 10, 11, one image PR1 and the other images PR2-PR4 are displayed on display device 44, after the correction brightness is set (section [0095], [0100] pages 42, 44, figure 12) the proper brightness of image which is displayed as synthesis image 100 in figure 11).

Regarding claim 10, Ueno et al. disclose wherein the correction parameters are exposure time ratios (aperture values set by display part 65, figure 10), and the correction parameter setting means has a function of displaying an imaginary adjustment knob on a display screen of the image display means such that each of the exposure time ratios is adjustable by a user (aperture modification display part 66, figures 10, 11).

Regarding claim 29, Ueno et al. disclose wherein the correction parameters are aperture ratios (aperture values set by display part 65, figure 10), and the correction parameter setting means has a function of displaying an imaginary adjustment knob on a display screen of the image display means such that each of the exposure time ratios is adjustable by a user (aperture modification display part 66, figures 10, 11).

Regarding claims 14, 20, 33, claims 14, 20, 33, are method claims of apparatus claims 2, 10, 29, respectively. Therefore, claims 14, 20, 33, are rejected for the reasons given respect to claims 2, 10, 29.

Claim 22 is considered equivalent to claim 14. Therefore, see Examiner's comments regarding to claim 14.

Claim 28 is considered equivalent to claim 20. Therefore, see Examiner's comments regarding to claim 20.

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Claim 34 is considered equivalent to claim 33. Therefore, see Examiner's comments regarding to claim 33.

As for claims 30-33, all the limitations are contained in claims 2, 10, 29, respectively. Therefore, see Examiner's comments regarding claims 2, 10, 29, respectively.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LUONG T NGUYEN whose telephone number is (703) 308-9297. The examiner can normally be reached on 7:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on (703) 305-4929. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LN
4/18/04

Luong T. Nguyen

**LUONG T. NGUYEN
PATENT EXAMINER**